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*Attorneys for Objectors 286 Rider Ave Development LLC,
Toby Moskovits and Yechial Michael Lichtenstein*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

286 Rider Ave Acquisition LLC,

Debtor.

Chapter 11

Case No. 21-11298-lgb

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**OBJECTION OF 286 RIDER DEVELOPMENT LLC, TOBY MOSKOVITS AND
YECHIAL MICHAEL LICHTENSTEIN TO LENDER’S EMERGENCY MOTION TO
ENFORCE COURT’S PRIOR ORDERS**

286 Rider Ave Development LLC (“**Development**”), Toby Moskovits and Yechial Michael Lichtenstein (collectively, “**Objectors**”), by undersigned counsel, hereby file this Objection (the “**Objection**”) to the Emergency Motion to Enforce Court’s Prior Orders [Dkt. No. 431] (the “**Motion**”) filed by Be-Aviv 286 Rider LLC (“**Lender**”) and, in support, state:

1. There was no reason for Lender’s Motion and there is no reason for this Court to entertain or otherwise address the faux issues raised by the Motion—that the order entered by Judge Gonzalez, the Administrative Judge, which extends her prior TRO, is a “violation” of the automatic stay, requiring *another* order from this Court *which restates an existing order* concerning the effect of the automatic stay on an action in the Bronx County Supreme Court

concerning redemption and the release of a pledge of Development's interests in the Debtor.

[ECF 361.]¹

2. As Objectors plainly stated in their communications to the Court and to Lender on April 21, 2022, at 11:26 AM (the morning that Lender tried to create another emergency):

Judge Gonzalez's order merely puts on the record the reason for the cancellation of the April 11, 2022 hearing that was to be held in the Bronx, on the matter of the release of the pledge. It is a state court order that addresses two dueling state-court orders—one issued by a Judge in Bronx County, Supreme Court, the other issued by a Judge in New York County, Supreme Court. The order has no bearing on the bankruptcy case and does not affect the Stay/TRO issued by this Court. *The bankruptcy Court's stay order otherwise continues in effect until the bankruptcy dismissal is effective.*

Frankly, Morrison Cohen, with their filing of an emergency order to show cause seeking to join the Bronx County case into the New York action, in which the debtor, 286 Rider Acquisition is the plaintiff and which was stayed by this bankruptcy filing—violated the bankruptcy stay.

We see no need for a hearing on this as it is not related to the bankruptcy case.

(A copy of this email is attached hereto as **Exhibit A**) (emphasis added).

3. Indeed, Objectors reiterated their position in two additional emails with the Court and opposing counsel on that same day, at 5:30 PM and 5:35 PM, after Lender filed the Motion. When the Court advised that it reserved the right to file a "gap order," pending a hearing on Monday, April 25, 2020, Objectors responded:

The only gap order that should be entered is an order that the court's prior TRO/OSC still stands. Anything else is an overreach as the matter in the Bronx relates only to redemption, which this court has conceded, it has no jurisdiction over.

¹ Entered April 8, 2021.

(A copy of the email chain reiterating Objectors' position is attached here to as **Exhibit B.**)

4. It appears that the Court agreed with Objectors as the Court later entered a "gap order" that applied the terms of this Court's April 8, 2022 Order to the subject of the Motion.

5. Objectors' position has not changed: Objectors believe that the Bankruptcy Court's stay order [ECF 361] applies to all orders, and that the issue of the redemption of Development's pledge of its equity interests is not subject to the automatic stay and may continue to be heard in state Court. [*See, e.g.*, ECF 427 ¶¶ 5-7.]

6. Finally, Objectors note that because the Motion was, and is, unnecessary, any attempts to seek attorneys fees related to the Motion, the emails with the Court and otherwise should be rejected by this Court as unreasonable. Rather, this Court should see the Motion as another attempt by Lender and its counsel to churn fees. Indeed, the latest legal bills provided by Lender are an astounding 10 times more than what the Debtor's attorney has billed for the same period, after the case has been fully administered, and is the process of winding down. The churn and claimed work is indefensible.

WHEREFORE, Objectors request that the Court enter an Order: (i) denying the Motion;
and (ii) granting such other relief as may be just.

Dated: New York, New York
April 25, 2022

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CERTIFICATE OF SERVICE

A copy of the Objection of 286 Rider Development LLC, Toby Moskovits and Yechial Michael Lichtenstein to the Emergency Motion to Enforce Court's Prior Orders [Dkt. No. 431] filed by Be-Aviv 286 Rider LLC was served on April 25, 2022 via (i) Electronic Notice and E-Mail upon the parties listed on the attached service list as denoted with a "*"; (ii) E-mail upon the parties listed on the attached service list as denoted with a "***"; and (iii) U.S. Mail postage pre-paid upon the parties listed on the attached service list as denoted with a "****".

SERVICE LIST

VIA ELECTRONIC NOTICE AND E-MAIL (*)

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